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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,339

02/06/2004

Eugene A. Helmetsie

60,137-207;136-3032-U

5319

26096

7590

07/14/2006

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EXAMINER

LE, HUYEN D

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/774,339	HELMETSIE ET AL.	
	Examiner	Art Unit	
	Huyen Le	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Upon consideration of the amendment filed on 06/07/2006, new grounds of rejection have been formulated and, therefore, the finality of the action dated 03/07/2006 is withdrawn.

Claim Objections

2. Claim 17 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 17 depends from cancelled claim 16.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 17 recites the limitation "said annular frame" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3751

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacuzzi et al (D383,198).

Regarding claim 19, the Jacuzzi et al reference discloses a shower surround comprising a base portion (tub portion); a first wall portion (the left wall from the corner shelf structure); a second wall portion (the right wall the corner shelf structure); and a corner portion (including the shelf structure) engaged with the base portion, the first wall portion, and the second wall portion, the corner portion comprising a multiple of horizontal shelf slots (recesses between the shelves) arranged vertically along the length of the corner portion, the horizontal shelf slots (having curved surface as shown in Fig. 12) define arcuate openings in the corner portion.

Regarding claim 18, the horizontal shelf slots comprise blind openings that extend into the corner portion.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12-15 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacuzzi et al (D383,198) in view of Haghayegh (6,591,762).

The Jacuzzi et al reference discloses a shower surround comprising a base portion (the tub portion); a first wall portion (the left wall from the corner shelf structure); a second wall portion (the right wall the corner shelf structure); and a corner portion (including the shelf structure) engaged with the base portion, the first wall portion, and the second wall portion.

Although Jacuzzi et al does not disclose that the shelves are removably engaged with horizontal shelf slots, attention is directed to the Haghayegh reference which teaches a corner shelf removably mounted to a corner assembly with slots 40,50 and tongues 18,29 for enhancing the flexibility of using the shelves as needed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Jacuzzi et al shower surround in view of the teaching of Haghayegh so that the shelves can be removably mounted to the corner assembly with slots and tongues in order to increase the flexibility of using the shelves as needed.

Since the interior surface of the corner portion is curved, the slots on the corner portion would be inherently arcuate.

Regarding claim 15, the interfaces between the slots 50 and the removable shelves provides a "snap in" interface 56.

Regarding claim 17, the shower surround comprises a frame (horizontal frame around the top edge of the tub as shown in Fig. 2) defining an opening there through that is generally parallel to the base portion.

Response to Arguments

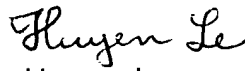
10. Applicant's arguments on 06/07/2006 with respect to claim 13-15 and 17-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Huyen Le
Examiner
Art Unit 3751

July 6, 2006